

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1735 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

1-5 No

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MOHD. HANIF HANIF DATHI                    N SHEIKH

Versus

STATE OF GUJARAT

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Appearance:

M/S THAKKAR ASSOC. for Petitioner  
MR. H.L. JANI, AGP, for Respondent No. 1, 2, 3

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CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 03/09/98

ORAL JUDGEMENT

Heard learned counsel for the petitioner. By way of this petition the petitioner has challenged the order dated 11.2.1998 passed by the respondent No. 2, Police Commissioner, Ahmedabad, in purported exercise of powers under Sub-Section (1) of Section 3 of the Gujarat Prevention of Anti-Social Activities Act, 1985 (hereinafter referred to as 'the PASA Act'). It appears from the grounds of detention that one case has been

registered against the petitioner wherein he is alleged to be involved in robbery for huge amount of Rs. 8.50 crore.

It is contended by the learned counsel that simply on the basis of a single case registered against the petitioner it cannot be said that the petitioner is a dangerous person. He can be put under ordinary law. The learned counsel relies on the decision of the apex court in the case of MUSTAK MIYA SHAIKH VS. M.M. MEHTA reported in 1995(2) GLR 1268.

It is submitted by the learned A.G.P. that the said case has been investigated and charge-sheet has been filed and the petitioner has not been granted bail in the said case.

Considering that there is a single case against the petitioner and the said case can be dealt with by ordinary law, the continued detention of the petitioner is unwarranted.

In view of the aforesaid, this Special Civil Application is allowed and the order of detention dated 11.2.1998 passed by the Commissioner of Police, Ahmedabad City, is quashed and set aside. No order for release is passed as admittedly the petitioner is involved in another criminal case wherein his arrest is wanted. Rule made absolute to the aforesaid extent.

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